

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

BRIAN DALE BARNETT,

Plaintiff,

v.

CASE NO. 15-3177-SAC-DJW

**JOHN DOE (PROFESSOR OF
JUSTICE STUDIES, FALL 2006),
et al.,**

Defendants.

MEMORANDUM AND ORDER

This matter is a civil rights action filed under 42 US.C. § 1983. Plaintiff filed this matter in the U.S. District Court for the District of Colorado, and that court transferred the matter upon its finding that venue was not proper in that district. *Barnett v. Doe*, 2015 WL 4113912 (D. Colo. Jul. 9, 2015).

Plaintiff's claim in this matter appears to be that his right to freedom of speech was violated by his removal from a Fort Hays State University on-line course after he posted a comment there. This occurred in fall 2006.

As explained in the order of transfer, a civil rights action filed in Kansas under § 1983 is subject to a two-year limitation period. *See Brown v. Unified Sch. Dist. 501, Topeka Pub. Schs.*, 465 F.3d 1184, 1188 (10th Cir. 2006) (stating that relevant limitation period is governed by K.S.A. § 60-513(a), which provides a two-year period for bringing a claim). Plaintiff's action concerns an event in 2006, yet he failed to file the complaint until 2015, approximately 7 years outside the limitation period. While equitable tolling is available under limited circumstances, plaintiff's amended complaint does not

allege any extraordinary circumstances as a basis for tolling.

Accordingly, the Court will direct plaintiff to show cause why this matter should not be dismissed due to his failure to commence this action within the limitation period. The failure to file a timely response may result in the dismissal of this matter without additional prior notice.

IT IS, THEREFORE, BY THE COURT ORDERED plaintiff is granted to and including July 31, 2017, to show cause why this matter should not be dismissed as time-barred.

IT IS SO ORDERED.

DATED: This 11th day of July, 2017, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge